




PATENT  
Attorney Docket No. NAC-447

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): Morello et al. CONFIRMATION NO.: 1835  
SERIAL NO.: 10/622,067 GROUP NO.: 3676  
FILING DATE: July 17, 2003 EXAMINER: Not Yet Assigned  
TITLE: CORE INSERT AND METHOD OF USE

**CERTIFICATE OF FIRST CLASS MAILING UNDER 37 C.F.R. 1.8**

I hereby certify that this correspondence, and any document(s) referred to as enclosed herein, is/are being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to the Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 16<sup>th</sup> day of November, 2004.

  
Sandra Allen

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Submitted herewith is/are:

1. Renewed Petition for Retroactive License Under 37 C.F.R. § 5.25 (2 pgs);
2. Supplemental Verified Statement in Support of Renewed Petition for Retroactive License Under 37 C.F.R. § 5.25 (2 pgs); and a
3. Return Receipt Postcard.



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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RENEWED PETITION FOR RETROACTIVE LICENSE UNDER 37 C.F.R. § 5.25**

In accordance with 37 C.F.R. § 5.25(b), the undersigned attorney renews the petition for a retroactive license under 35 U.S.C. § 184 for the above-identified patent application.

A Decision on Request Under 37 CFR 5.25 ("Decision") was mailed from the U. S. Patent and Trademark Office on September 27, 2004. In response to the Decision, the undersigned attorney submits this Renewed Petition for Retroactive License Under 37 C.F.R. § 5.25 ("Renewed Petition") along with a Supplemental Verified Statement in Support of Renewed Petition for Retroactive License Under 37 C.F.R. § 5.25. This Renewed Petition is submitted within 60 days of the mailing date of the Decision, *i.e.*, by November 26, 2004.

The undersigned attorney thanks Examiner Abbott for discussing the Decision on October 13, 2004. As a result, the undersigned attorney submits this Renewed Petition and Supplemental Verified Statement.

The undersigned attorney believes that no fee is due for this Renewed Petition, however, if a fee is required for this submission, the Director is authorized to charge the fee to Deposit Account No. 20-0531.

The undersigned respectfully requests that this Renewed Petition be granted. If there are any questions with respect to this Renewed Petition, the Patent Office is requested to contact the undersigned attorney.

Respectfully submitted,

Dated: November 16, 2004

Reg. No. 41,640

Tel. No.: (617) 248-7012

Fax No.: (617) 790-0037

A handwritten signature in black ink, appearing to read "Michael H. Brodowski", is written over a horizontal line.

Michael H. Brodowski

Attorney for Applicants

Testa, Hurwitz & Thibault, LLP

High Street Tower

125 High Street

Boston, Massachusetts 02110



PATENT  
Attorney Docket No. NAC-447

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

INVENTORS: Morello et al.  
SERIAL NO.: 10/622,067 GROUP NO.: 3676  
FILING DATE: May 17, 2003 EXAMINER: Not Yet Assigned  
TITLE: CORE INSERT AND METHOD OF USE

**Mail Stop Petition**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**SUPPLEMENTAL VERIFIED STATEMENT IN SUPPORT OF  
RENEWED PETITION FOR RETROACTIVE LICENSE UNDER 37 C.F.R. § 5.25**

The undersigned attorney submits this Supplemental Verified Statement in Support of Renewed Petition for Retroactive License Under 37 C.F.R. § 5.25 ("Supplemental Verified Statement") for the above-identified patent application. This Supplemental Verified Statement incorporates by reference the Verified Statement in Support of Petition for Retroactive License Under 37 C.F.R. § 5.25 ("Verified Statement") filed on November 12, 2003, and already considered. Accordingly, this Supplemental Verified Statement does not repeat the contents of the Verified Statement, but rather addresses the requirements set forth in 37 C.F.R. § 5.25(a)(3)(iii), which allegedly were not met.

In accordance with 37 C.F.R. § 5.25(a)(3)(iii), the undersigned attorney submits that the material was filed with the Canadian Patent Office through error and without deceptive intent without the required license under 37 C.F.R. § 5.11 first having been obtained. In support, the undersigned attorney submits that the assignee of the above-identified patent application typically foreign files its patent applications via the Patent Cooperation Treaty (PCT) using the U.S. Receiving Office, which will not forward the patent application abroad until after a foreign filing license has been granted. For this application, the assignee provided foreign filing instructions near the one year anniversary of U.S. Provisional Patent Application Serial No. 60/396,359, to

which the above-identified patent application claims priority. The assignee decided to forgo the PCT application route and to file only with the Canadian Patent Office.


The undersigned attorney was contemporaneously aware that a Canadian associate was provided with the material and instructed to file the application with the Canadian Patent Office. However, the undersigned attorney inadvertently overlooked obtaining the required license under 37 C.F.R. § 5.11 prior to providing the instructions to the Canadian associate to file the application. The undersigned attorney submitted a Petition for Retroactive License Under 37 C.F.R. § 5.25 on November 12, 2003, shortly after becoming aware that the foreign filing with the Canadian Patent Office had taken place without the required foreign filing license having first been obtained.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001 and that such willful false statements may jeopardize the validity of this application or any patent issuing therefrom.

Respectfully submitted,

Dated: November 16, 2004  
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Michael H. Brodowski  
Attorney for Applicants  
Testa, Hurwitz & Thibeault, LLP  
High Street Tower  
125 High Street  
Boston, Massachusetts 02110